

Message Text

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PAGE 01 STATE 189926
ORIGIN OES-07

INFO OCT-01 ARA-10 EUR-12 ISO-00 CIAE-00 DODE-00 PM-05
H-01 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01
SP-02 SS-15 USIA-06 ACDA-07 IO-13 EB-08 NRC-05
FEAE-00 ERDA-05 /114 R

DRAFTED BY OES/NET/IM: D B HOYLE
APPROVED BY OES/NET: L V NOSENZO
ERDA: G HELFRICH
NRC: M GUHIN (SUBS)
ACDA: D RUST(SUBS)
IO/SCT: A JILLSON (SUBS)
L/OES: C SIEGAL(SUBS)
PM/NPP: G OPLINGER (SUBS)
-----099730 111734Z /44

P 111659Z AUG 77
FM SECSTATE WASHDC
TO AMEMBASSY VIENNA PRIORITY
AMEMBASSY BELGRADE PRIORITY
AMEMBASSY BUCHAREST PRIORITY
AMEMBASSY MEXICO PRIORITY
AMEMBASSY BRUSSELS PRIORITY

C O N F I D E N T I A L STATE 189926

USIAEA AND USEEC

E.O. 11652:GDS

TAGS: TECH, IAEA, EC, ENRG

SUBJECT: IMPLEMENTATION OF NEW U.S. NON-PROLIFERATION
POLICIES

REFERENCES: (A) A-2202; (B) VIENNA 6712

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1. ADMINISTRATION'S "NUCLEAR NON-PROLIFERATION POLICY ACT
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IMMEDIATE CRITERIA WHICH MUST BE MET BEFORE ISSUANCE OF NRC
EXPORT LICENSE FOR SOURCE MATERIAL, SPECIAL NUCLEAR MATERI-
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OF THESE -- U.S. APPROVAL RIGHTS OVER RETRANSFERS AND
REPROCESSING -- ARE NOT INCLUDED IN TEXT OF THE CURRENT

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2. ASSUMING NO RADICAL CHANGES IN THE LEGISLATION AS ULTIMATELY PASSED, IT APPEARS THAT THERE WILL BE TWO MAJOR AND SOMEWHAT INDEPENDENT ACTIONS NECESSARY IN THIS REGARD. IMMEDIATELY UPON PASSAGE OF THE LEGISLATION, WE WILL HAVE TO GET, EITHER FROM THE AGENCY OR FROM ANY INDIVIDUAL MEMBER WISHING TO OBTAIN MATERIALS UNDER THE U.S.-IAEA AGREEMENT FOR COOPERATION, A COMMITMENT TO RENEGOTIATE THE AGREEMENT OR TO OTHERWISE AGREE TO NEGOTIATE THE UNDERTAKINGS WHICH WILL BE REQUIRED IN FUTURE U.S. AGREEMENTS FOR COOPERATION. UNLESS AND UNTIL SUCH A COMMITMENT IS OBTAINED, IT WILL BE IMPOSSIBLE FOR NRC TO ISSUE THE NECESSARY EXPORT LICENSE (ALTHOUGH BILL PERMITS PRESIDENT TO AUTHORIZE SUCH EXPORTS IN ABSENCE OF NRC LICENSE WHERE HE FINDS IT NECESSARY IN LIGHT OF

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OVERRIDING POLICY CONCERNS). SUBSEQUENTLY, THE U.S.-IAEA AGREEMENT ACTUALLY WILL HAVE TO BE AMENDED OR THE UNDERTAKINGS OTHERWISE OBTAINED FROM THE IAEA OR INDIVIDUAL MEMBER NATIONS. THE ADMINISTRATION'S BILL SETS NO TIME LIMIT FOR DOING THIS; THE CONGRESSIONAL BILLS, WHILE DIFFERING IN SOME RESPECTS, WOULD REQUIRE THIS TO BE ACCOMPLISHED IN AS LITTLE AS EIGHTEEN MONTHS, ALTHOUGH PROVIDING MECHANISMS FOR POSSIBLE EXTENSION IF NOT COMPLETED WITHIN THE BASIC PERIOD.

3. IN ADDITION TO U.S. APPROVAL RIGHTS OVER RETRANSFERS AND REPROCESSING, THE MANDATORY PROVISIONS OF SECTION 401 IN THE ADMINISTRATION'S BILL INCLUDE UNDERTAKINGS WITH RESPECT TO PHYSICAL SECURITY, FULL-SCOPE SAFEGUARDS, AND AN EXPLICIT "NO-PNE" PLEDGE WHICH ARE TO BE INCLUDED IN NEW OR AMENDED AGREEMENTS, BUT WHICH ARE NOT CONTAINED IN (OR ARE ONLY PARTIALLY MET UNDER) OUR EXISTING AGREEMENT FOR COOPERATION WITH THE IAEA. FYI: THE LEGISLATION AS ULTIMATELY ADOPTED MAY WELL CONTAIN EVEN MORE COMPREHENSIVE U.S. BILATERAL RIGHTS AND CONTROLS THAN THE ADMINISTRATION'S PROPOSAL. END FYI.

4. AS MISSION IS AWARE, EVEN BEFORE INTRODUCTION OF THIS LEGISLATION, U.S. USE OF IAEA FOR TRANSFER OF MATERIALS HAD SLOWED MARKEDLY, LARGELY BECAUSE OF U.S. CONCERNS OVER ABSENCE OF U.S. APPROVAL RIGHTS ON RETRANSFERS AND REPROCESSING FOR SUCH TRANSFERS AND, IN CERTAIN CASES, LACK OF BILATERAL BACKUP SAFEGUARDS RIGHTS. RELATEDLY, THIS WAS A MAJOR FACTOR IN THE IMPASSE REGARDING ISSUANCE OF KRSKO REACTOR EXPORT LICENSE AND CONSTITUTES AN ISSUE WHICH MUST BE RESOLVED BEFORE EXECUTIVE BRANCH FAVORABLE RECOMMENDATION TO NRC ON ISSUANCE OF FUEL EXPORT LICENSE. MORE RECENTLY, THIS WAS A MOTIVATING CONSIDERATION IN U.S. PROPOSALS CONCERNING TERMS OF DRAFT TRILATERAL AGREEMENT COVERING TRANSFER OF RESEARCH REACTOR AND FUEL TO MEXICO

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AND SUGGESTION THAT MALAYSIAN REACTOR BE PROVIDED UNDER A BILATERAL AGREEMENT, RATHER THAN THROUGH IAEA. FYI: -- ALTHOUGH THERE WAS EXECUTIVE BRANCH AGREEMENT ON MEXICAN AND MALAYSIAN CASES, THEY ARE NOT NECESSARILY TO BE VIEWED AS SETTING PRECEDENTS FOR FUTURE. CERTAINLY, MISSION AND IAEA VIEWS IN REFTEL B WILL BE TAKEN INTO ACCOUNT IN OUR FURTHER CONSIDERATION OF THIS MATTER. END FYI.

5. WITH REGARD TO THE ULTIMATE U.S. NEED FOR SUPPLEMENTAL UNDERTAKINGS AND RIGHTS, ONE POSSIBILITY WOULD, OF COURSE, BE TO RENEGOTIATE THE EXISTING IAEA AGREEMENT FOR COOPERATION. IT IS OUR JUDGMENT THAT THIS COULD BE A RELATIVELY HIGH VISIBILITY EXERCISE WHICH MIGHT RUN INTO SERIOUS RESISTANCE WITH SOME OF THE IAEA MEMBER STATES IN OBTAINING BOARD OF GOVERNORS' APPROVAL, GIVEN PRESENT ATTITUDES TOWARD U.S. NON-PROLIFERATION POLICIES. FURTHER, IT WOULD BE TIME-CONSUMING ON BOTH SIDES. NEGOTIATIONS COULD NOT BEGIN UNTIL SOME TIME AFTER THE LEGISLATION HAS BEEN PASSED AND, FOLLOWING NEGOTIATION AND PRESIDENTIAL APPROVAL ON THE U.S. SIDE, THE AMENDMENT WOULD HAVE TO LIE BEFORE THE CONGRESS FOR SIXTY DAYS WHILE THE LATTER WAS IN SESSION. THUS, APPROVAL BEFORE SOME TIME IN 1978 WOULD BE QUESTIONABLE. NEVERTHELESS, INITIATION OF NEGOTIATIONS WOULD PERMIT CONTINUED EXPORTS UNDER THE EXISTING AGREEMENT FOR COOPERATION. IN ADDITION, THE POTENTIAL NON-PROLIFERATION BENEFIT OF ACHIEVING FULL-SCOPE SAFEGUARDS FOR NON-NPT PARTIES OF IAEA SHOULD NOT BE OVERLOOKED.

6. ANOTHER POSSIBILITY WOULD BE THE NEGOTIATION OF INDIVIDUAL TRILATERAL AGREEMENTS FOR EACH TRANSFER, FOLLOWING THE PATTERN OF THAT PROPOSED FOR THE TRANSFER OF THE OREGON STATE UNIVERSITY REACTOR AND ITS FUEL TO
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MEXICO. THE PROBLEM WITH THIS APPROACH IS THE ADMINISTRATIVE WORKLOAD INVOLVED (PARTICULARLY IF NECESSARY FOR A LARGE NUMBER OF SMALL TRANSACTIONS) AND THE TIME WHICH WOULD BE REQUIRED TO OBTAIN BOARD OF GOVERNORS' APPROVAL FOR EACH SUCH INDIVIDUAL TRILATERAL AGREEMENT. (THESE WOULD NOT HAVE TO BE SECTION 123 AGREEMENTS; USG APPROVAL RESTS WITHIN THE EXECUTIVE BRANCH.)

7. ANOTHER POSSIBILITY WOULD BE FOR THE U.S. AND THE IAEA TO ENTER INTO A GENERIC AGREEMENT ON THESE ISSUES TO WHICH THIRD PARTIES COULD ADHERE BY A PROTOCOL AT THE TIME THEY WISHED TO OBTAIN NUCLEAR MATERIALS OR (IF WITHIN U.S. POLICY) A RESEARCH REACTOR FROM THE U.S. IN ADDITION TO THE OBVIOUS ADMINISTRATIVE ADVANTAGES, THIS APPROACH MIGHT MAKE IT EASIER POLITICALLY FOR SOME NATIONS TO ACCEPT ADDITIONAL U.S. CONDITIONS. (AS AN EXAMPLE, THE

YUGOSLAVS HAVE MADE A MAJOR DISTINCTION BETWEEN ADHERING TO "EXISTING" INTERNATIONAL AGREEMENTS AND BEING FORCED BILATERALLY TO ACCEPT NEW CONDITIONS SPECIFICALLY FOR KRSKO.)

8. WE RECOGNIZE THAT EITHER OF THESE TWO LATTER APPROACHES UNDOUBTEDLY WOULD ALSO HAVE TO BE APPROVED BY BOARD OF GOVERNORS; HOWEVER, THAT OUTLINED IN PARA 7 PRESUMABLY WOULD REQUIRE EXPOSURE ONLY ONE TIME, RATHER THAN REPEATEDLY FOR EACH INDIVIDUAL TRANSACTIONS. FURTHER, IT IS OUR GUESS THAT IT MIGHT BE EASIER TO ACHIEVE OUR OBJECTIVES BY PROCEEDING ALONG THE LINES OF EITHER PARA 6 OR 7 THAN TO AMEND THE EXISTING US-IAEA AGREEMENT FOR COOPERATION, WHICH WOULD BE MORE LIKELY TO BE VIEWED IN A BROADER POLITICAL CONTEXT.

9. ACTION REQUESTED. MISSION SHOULD EXPLORE WITH AGENCY STAFF ON LOW-KEY BASIS HOW AGREEMENT TO NEGOTIATIONS UNDER SECTION 403 (AS DISCUSSED PARA 1) MIGHT BEST BE

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ORIGIN OES-04

INFO OCT-01 EA-01 ISO-00 /006 R

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DRAFTED BY: OES/NET/IM: DHCOOPER:BJB

APPROVED BY: OES/NET/IM: D B HOYLE

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R 200234Z AUG 77

FM SECSTATE WASHDC

TO AMEMBASSY KUALA LUMPUR

C O N F I D E N T I A L STATE 189926

FOLLOWING TELEGRAM FROM SECSTATE WASHDC DATED AUGUST 11, 1977
SENT VIENNA, BELGRADE, BUCHAREST, MEXICO, BRUSSELS IS REPEATED
TO YOU: QUOTE

C O N F I D E N T I A L STATE 189926

USIAEA AND USEEC

E.O. 11652:GDS

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Message Attributes

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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Original Classification: CONFIDENTIAL
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Original Previous Handling Restrictions: n/a
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Reference: 77 VIENNA 6712
Retention: 0
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Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1629814
Secure: OPEN
Status: NATIVE
Subject: IMPLEMENTATION OF NEW U.S. NON-PROLIFERATION POLICIES
TAGS: TECH, ENRG, EC, US, IAEA
To: VIENNA BELGRADE MULTIPLE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/3e4e105c-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
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